

March 28, 2019

By Email: hq.foia@epa.gov

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Environmental Protection Agency regulations.

First, CREW requests all communications between Aaron Hobbs and Wendy Cleland-Hamnet, Nancy Beck, Rick Keigwin, Marietta Echeverria, Samantha Dravis, or Sara Greenwalt from January 1, 2017 to January 1, 2019 about any matter pertaining to Fish and Wildlife and endangered species.

Second, CREW requests records of any meetings Wendy Cleland-Hamnet, Nancy Beck, Rick Keigwin, Marietta Echeverria, Samantha Dravis, or Sara Greenwalt had with Aaron Hobbs from January 1, 2017 to January 1, 2019, and a list of who was present at those meetings.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc’ed or bcc’ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are

properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. *See* 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. *See Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and U.S. Department of Agriculture regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

In 2017, there was a concerted effort by the pesticide industry to encourage Trump administration officials not to publicly release an analysis of the effect of three pesticides on hundreds of endangered species.¹ The report was ultimately blocked, in a victory for pesticide companies and their lobbyists. Aaron Hobbs, a former CropLife lobbyist, was reportedly among the pesticide industry advocates who reached out to administration officials about the endangered species analysis. Another former CropLife lobbyist, and Rebeckah Adcock was one of the USDA officials in the meetings that seem to have come out of Hobbs' contacts with officials.²

Industry lobbyists have enjoyed unprecedented access in the Trump administration, with both EPA and Interior currently being led by a former coal lobbyist and former oil lobbyist.³ In other agencies, like the USDA, officials similarly have deep ties to the industries they regulate. Some,

¹ Eric Lipton, Interior Nominee Intervened to Block Report on Endangered Species, *New York Times*, March 26, 2019, available at <https://www.nytimes.com/2019/03/26/us/politics/endangered-species-david-bernhardt.html?action=click&module=Top%20Stories&pgtype=Homepage>.

² *Id.*

³ Ellie Kaufmann, Senate confirms former coal lobbyist Andrew Wheeler to lead EPA, *CNN*, February 28, 2019, available at <https://www.cnn.com/2019/02/28/politics/andrew-wheeler-confirmation/index.html> and Timothy Cama and Miranda Green, Trump picks ex-oil lobbyist David Bernhardt for Interior secretary, *The Hill*, February 4, 2019, available at <https://thehill.com/policy/energy-environment/428395-trump-picks-ex-oil-lobbyist-david-bernhard-for-interior-secretary>.

like Adcock have come under scrutiny for potential violations of their ethics pledges, which would prohibit officials from participating “personally and substantially in any particular matter” that they have a financial interest in, or related to a former employer.⁴

The requested records would shed light on USDA officials’ compliance with their ethics pledges, and the ways in which one industry lobbyist attempted to influence the agency--to apparent success. The matter is of significant public interest, as President Trump promised to “drain the swamp,” yet reporting suggests that industry lobbyists may have more access and success promoting their clients interests than ever before.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW’s financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a “representative of the news media” and broadly interpreting the term to include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely and systematically disseminates information to the public in several ways. CREW’s website receives tens of thousands of page views every month. The website includes a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website, which has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

⁴ Danielle Ivory and Robert Faturechi, *An Open Door for Pesticide Lobbyists at the U.S.D.A.*, *New York Times*, November 13, 2017, available at <https://www.nytimes.com/2017/11/13/business/trump-regulations-usda-lobbyists.html?module=inline>

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or lhonl-stuenkel@citizensforethics.org. Also, if CREW's request for expedition and/or a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me either at lhonl-stuenkel@citizensforethics.org or Linnaea Honl-Stuenkel, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W, Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,

Linnaea Honl-Stuenkel